



## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Gary S. Hahn et al.

Art Unit : 1617

Serial No. : 09/992,491

Examiner : Alysia Berman

Filed : November 21, 2001

Title : TOPICAL PRODUCT FORMULATIONS CONTAINING STRONTIUM FOR  
REDUCING SKIN IRRITATIONU.S. Patent and Trademark Office  
Arlington, VA 22202

TECH CENTER 1600/1600

OCT 18 2002

RECEIVED

#8  
HKO

10/24/02

RESPONSE

This is intended to be a complete Response to the Restriction Requirement mailed September 10, 2002. The Examiner has not set forth any claim groups defining the species that she alleges are patentably distinct. The Examiner has indicated that various vehicles (liquid, cream, lotion, gel, solid) as well as various ingredients (surfactant, irritant, emulsifier) are patentably distinct species. Accordingly, Applicants elect the species of claim 3, wherein the formulation is a lotion. The claims that depend from claim 3 are claims 26-52. Therefore, the elected claims are 1, 3 and 26-52. This election is made WITH TRAVERSE.

Applicants respectfully request the Examiner reconsider and withdraw the Restriction Requirement. Applicants submit that a complete search of the art relative to 5-10% divalent strontium cation in a particular topical vehicle would necessarily include a search of the other topical vehicles and would in no way be unduly burdensome. The Examiner has indicated that a reference anticipating or rendering obvious one form would not necessarily anticipate or render obvious the other embodiments. Applicants respectfully disagree. The forms of topical vehicles (liquid, cream, lotion, gel, solid) are not patentably distinct from one another. Moreover, if claim 3 is found to be patentable, then the dependent claims which include the further limitations of additional ingredients would also be patentable and would not require a separate search.

## CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 2327, Arlington, VA 22202.

Date of Deposit

October 10, 2002

Signature

Lucille M. Begalle

Lucille M. Begalle

Typed or Printed Name of Person Signing Certificate

Applicant : Gary S. Hahn et al.  
Serial No. : 09/992,491  
Filed : November 21, 2001  
Page : 2

Attorney : Docket No.: 14555-003004

Applicants respectfully reserve the right to appeal this Restriction Requirement to the Group Director.

No fees are believed due. Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: October 10, 2002

Diane L. Gardner  
Diane L. Gardner  
Reg. No. 36,518

Fish & Richardson P.C.  
4350 La Jolla Village Drive, Suite 500  
San Diego, California 92122  
Telephone: (858) 678-5070  
Facsimile: (858) 678-5099



Attorney's Docket No.: 14555-003004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Gary S. Hahn et al.  
Serial No. : 09/992,491  
Filed : November 21, 2001  
Title : TOPICAL PRODUCT FORMULATIONS CONTAINING STRONTIUM FOR  
REDUCING SKIN IRRITATION

Art Unit : 1617  
Examiner : Alysia Berman

U.S. Patent and Trademark Office  
Arlington, VA 22202

TRANSMITTAL LETTER

Correspondence relating to this application is enclosed. The required fees are computed below. Please apply any charges not covered, or any credits, to Deposit Account No. 06-1050.

Total Claims	65	-	65	=	0	\$0
Independent	1	-	3	=	0	\$0
First Presentation of Multiple Dependent Claims						\$0
TOTAL FEE DUE						\$0

Respectfully submitted,

Date: October 10, 2002

Diane L. Gardner  
Diane L. Gardner  
Reg. No. 36,518

Fish & Richardson P.C.  
4350 La Jolla Village Drive, Suite 500  
San Diego, California 92122  
Telephone: (858) 678-5070  
Facsimile: (858) 678-5099

10220927.doc

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 2327, Arlington, VA 22202.

October 10, 2002  
Date of Deposit  
Lucille M. Begalla  
Signature  
Lucille M. Begalla  
Typed or Printed Name of Person Signing Certificate